

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6600**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CARL ANTHONY SMITH,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, District Judge. (CR-94-1)

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Submitted: July 2, 2003

Decided: July 17, 2003

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Before WILKINSON, WILLIAMS, and MOTZ, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Carl Anthony Smith, Appellant Pro Se. John Staige Davis, V, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Carl Anthony Smith appeals the district court's order denying his motion for a reduction in sentence pursuant to 18 U.S.C. § 3582(c) (2000). We have reviewed the record and find no reversible error. In addition to the reasoning of the district court, see United States v. Smith, No. CR-94-1 (E.D. Va. Apr. 1, 2003), we further find that Amendment 640 to U.S.S.G. § 2D1.1(a)(3) is a substantive amendment and that the Sentencing Commission did not intend that it be retroactively applied. Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED